

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT
AND MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*

Debtors.¹

PROMESA
Title III

No. 17 BK 3283-LTS

(Jointly Administered)

**JOINDER OF ASSURED GUARANTY CORP. AND ASSURED GUARANTY
MUNICIPAL CORP. TO THE MOTION OF THE AD HOC GROUP OF GENERAL
OBLIGATION BONDHOLDERS TO RECONSTITUTE THE OFFICIAL COMMITTEE
OF UNSECURED CREDITORS PURSUANT TO 11 U.S.C. §§ 105(a) AND 1102(a)(4)**

To the Honorable United States District Court Judge Laura Taylor Swain:

Assured Guaranty Corp. and Assured Guaranty Municipal Corp. (f/k/a Financial Security Assurance Inc.) (together, “Assured”) hereby respectfully submit this joinder (this “Joinder”) in support of the relief sought in the *Motion Of The Ad Hoc Group Of General Obligation Bondholders To Reconstitute The Official Committee Of Unsecured Creditors Pursuant To 11 U.S.C. §§ 105(a) And 1102(a)(4)* [ECF No. 694] (the “Committee Reconstitution Motion”).² In support of this Joinder, Assured states as follows:

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number listed as a bankruptcy case number due to software limitations and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); and Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686).

² Capitalized terms not otherwise defined in this Joinder have the meanings ascribed to them in the Committee Reconstitution Motion.

I. Assured Is One Of Puerto Rico's Largest Creditors

1. Assured is a leading provider of financial guaranty insurance, which is a type of insurance whereby an insurer guarantees scheduled payments of interest and principal on a bond or other obligation when due. Governments, including the Commonwealth of Puerto Rico (the "Commonwealth"), typically acquire financial guaranty insurance because it allows them to borrow at lower interest rates. Assured and its affiliates insure or reinsure approximately \$5.4 billion of the indebtedness of the Commonwealth and its public corporations. As such, Assured constitutes one of Puerto Rico's largest creditors.

2. In particular, Assured insures approximately \$1.57 billion of debt issued or guaranteed by the Commonwealth, consisting of (i) approximately \$1.42 billion of general obligation bonds ("GO Bonds") issued by the Commonwealth and (ii) approximately \$146.5 million of bonds (the "PBA Bonds") issued by the Puerto Rico Public Buildings Authority ("PBA") and guaranteed by the Commonwealth. Under its insurance agreements and/or insurance policies, Assured is deemed to be the sole owner of the bonds that it insures for purposes of, or otherwise has control rights over, consents and other bondholder actions, including exercising rights and remedies. Assured is also generally an express third party beneficiary of the resolutions, indentures, or trust agreements under which the bonds are issued. For these reasons, and as Section 301(c)(3)(B) of PROMESA expressly recognizes, financial guaranty insurers such as Assured are authorized to act on behalf of the holders of the bonds they insure, including in proceedings under Title III of PROMESA. 48 U.S.C. § 2161(c)(3)(B).

3. In addition, Assured has become subrogated to the rights of holders of GO Bonds ("GO Bondholders") and PBA Bonds ("PBA Bondholders") by paying approximately \$419.6 million to date of the claims of such bondholders following defaults by the applicable issuer. Specifically, following the Commonwealth's default with respect to principal and interest

payments due on the GO Bonds on July 1, 2016, January 1, 2017, and July 1, 2017, Assured paid approximately \$381.6 million in aggregate claims by GO Bondholders. Following PBA's and the Commonwealth's default with respect to debt service payments due on PBA Bonds on July 1, 2016, January 1, 2017, and July 1, 2017, Assured paid approximately \$38 million in aggregate claims by PBA Bondholders.

4. Payment by Assured neither satisfies nor discharges an issuer's or guarantor's obligation to make debt service payments. To the extent Assured makes such payments to bondholders—including the GO Bondholders and the PBA Bondholders—Assured steps into the shoes of such bondholders and effectively becomes the owner of their bonds.

II. The Committee Does Not Adequately Represent Assured Or Other GO Bondholders

5. On May 3, 2017, the Oversight Board filed a petition in this Court under Title III of PROMESA on behalf of the Commonwealth. In its list of the 20 largest unsecured creditors, the Commonwealth listed Cede & Co. as representative of the GO Bondholders as its largest creditor. See Notice of Filing of Amended Schedule B to Title III Petition – List of Creditors Who Have the 20 Largest Unsecured Claims, ECF No. 3.

6. On June 9, 2017, the United States Trustee (the "U.S. Trustee") held a meeting in San Juan, Puerto Rico to form a Committee of Unsecured Creditors (the "Committee") in the Commonwealth's Title III case. Assured requested to serve on the Committee, submitted a questionnaire to the U.S. Trustee in advance of the Committee formation meeting, and attended the meeting. On information and belief, other major GO Bondholders also sought to serve on the Committee. See Committee Reconstitution Motion ¶¶ 1, 13.

7. On June 15, 2017, the U.S. Trustee appointed the Committee. See Appointment Of Official Committee Of Unsecured Creditors In The Commonwealth Of

Puerto Rico, ECF No. 338. Notwithstanding the willingness of Assured and other major GO Bondholders to serve on the Committee and the fact that Cede & Co., as representative of the GO Bondholders, is by far the largest creditor of the Commonwealth, the U.S. Trustee did not appoint Assured or any other GO Bondholder to the Committee.

8. Instead, the Committee currently consists entirely of (i) trade creditors whose claims are currently being paid in full and/or are projected to be paid substantially in full in the future; (ii) labor unions whose members' claims are currently being paid in full and/or are projected to be paid substantially in full in the future, and (iii) one tax refund claimant. Specifically, the members of the Committee are:

Committee Member	Category of Creditor
The American Federation of Teachers	Union
Doral Financial Corporation	Tax Refund Claimant
Genesis Security	Trade Creditor
Puerto Rico Hospital Supply	Trade Creditor
Service Employees International Union	Union
Total Petroleum Puerto Rico Corp.	Trade Creditor
Unitech Engineering	Trade Creditor

9. Section 1102(a)(4) of the Bankruptcy Code provides: "On request of a party in interest and after notice and a hearing, the court may order the United States trustee to change the membership of a committee appointed under this subsection, if the court determines that the change is necessary to ensure adequate representation of creditors or equity security holders." 11 U.S.C. § 1102(a)(4).

10. Given its current composition, the Committee clearly does not "ensure adequate representation" of the Commonwealth's diverse community of creditors as required by section 1102(a)(4) of the Bankruptcy Code. The Committee consists of 57% trade creditors,

29% unions, and 14% tax refund claimants. The Committee has no GO Bondholders or any other financial creditors.³

11. For these reasons and the reasons set forth in the Committee Reconstitution Motion, the Committee should be reconstituted to include substantial GO Bondholder participation.⁴ Additionally, Assured remains willing and able to serve on the Committee.

CONCLUSION

For the reasons set forth herein, Assured joins in the Committee Reconstitution Motion and respectfully requests that that the Court grant the Committee Reconstitution Motion.

³ Section 1102(b)(1) of the Bankruptcy Code provides, “[a] **committee of creditors . . . shall ordinarily consist of the persons, willing to serve, that hold the seven largest claims against the debtor of the kinds represented on such committee . . .**” 11 U.S.C. § 1102(b)(1) (emphasis added).

⁴ Alternatively, as requested in the Committee Reconstitution Motion, the Court should appoint an additional committee of GO Bondholders.

Dated: San Juan, Puerto Rico
July 28, 2017

CASELLAS ALCOVER & BURGOS P.S.C.

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CERTIFICATE OF SERVICE

I hereby certify that I filed this document electronically with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to all parties of record in the captioned case. Further, I directed that the following counsel of record to be served by U.S. Mail:

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At San Juan, Puerto Rico, this 28th day of July, 2017.

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